

13A.3104 Certification process for avoiding expiration of administrative regulations -- When regulations expire.

- (1) If an administrative body does not want an administrative regulation to expire under KRS 13A.3102, the administrative body shall, in the twelve (12) months prior to the expiration date:
 - (a) Review the administrative regulation in its entirety for compliance with current law governing the subject matter of the administrative regulation;
 - (b) File a certification letter with the regulations compiler stating whether the administrative regulation:
 1. Shall be amended because it is not in compliance with current governing law or otherwise needs amendment;
 2. Shall remain in effect without amendment because it is in compliance with current governing law; or
 3. Is in need of amendment and a proposed amendment has already been filed; and
 - (c) Not be required to consider KRS Chapter 13A drafting and formatting requirements as part of its review.
- (2) The certification letter shall be on the administrative body's official letterhead, in the format prescribed by the regulations compiler, and include the following information:
 - (a) The name of the administrative body;
 - (b) The number of the administrative regulation;
 - (c) The title of the administrative regulation;
 - (d) The statement required by subsection (1)(b) of this section;
 - (e) A brief statement in support of the decision; and
 - (f) The authorizing signature of the administrative body.
- (3)
 - (a) If the certification letter was filed pursuant to subsection (1)(b)1. of this section, stating that the administrative regulation shall be amended, the administrative body shall file an amendment to the administrative regulation in accordance with KRS Chapter 13A within eighteen (18) months of the date the certification letter was filed.
 - (b) If the amendment was filed in accordance with paragraph (a) of this subsection:
 1. The administrative regulation shall not expire if the amendment is continuing through the administrative regulations process; or
 2. The administrative regulation shall expire on the date the amendment is withdrawn or otherwise ceases going through the administrative regulations process.
 - (c) Once the amendment is effective, the regulations compiler shall update the last effective date for that administrative regulation to reflect the amendment's effective date.

- (d) If the amendment was not filed in accordance with paragraph (a) of this subsection, the administrative regulation shall expire at the end of the eighteen (18) month period.
- (4) If the certification letter was filed pursuant to subsection (1)(b)2. of this section, stating that the administrative regulation shall remain in effect without amendment, the regulations compiler shall:
 - (a) Update the administrative regulation's history line to state that a certification letter was received; and
 - (b) Change the last effective date of the administrative regulation to the date the certification letter was received.
- (5) (a) If the certification letter was filed pursuant to subsection (1)(b)3. of this section, stating that a proposed amendment has already been filed:
 - 1. The administrative regulation shall not expire if the amendment is continuing through the administrative regulations process; or
 - 2. The administrative regulation shall expire on the date the amendment is withdrawn or otherwise ceases going through the administrative regulations process.
 - (b) Once the amendment is effective, the regulations compiler shall update the last effective date for that administrative regulation to reflect the amendment's effective date.
- (6) If filed by the deadline established in KRS 13A.050(3), the regulations compiler shall publish in the Administrative Register of Kentucky each certification letter received:
 - (a) In summary format; or
 - (b) In its entirety.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 125, sec. 3, effective June 29, 2021. -- Amended 2019 Ky. Acts ch. 192, sec. 11, effective June 27, 2019. -- Created 2017 Ky. Acts ch. 77, sec. 5, effective June 29, 2017.